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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/686,609	10/17/2003	Takeshi Yamashita	244151US90	8948
22850 7590 11/13/2007 OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, P.C. 1940 DUKE STREET ALEXANDRIA, VA 22314			EXAMINER ALAM, FAYYAZ	
			ART UNIT 2618	PAPER NUMBER
			NOTIFICATION DATE 11/13/2007	DELIVERY MODE ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Advisory Action Before the Filing of an Appeal Brief	Application No. 10/686,609	Applicant(s) YAMASHITA ET AL.	
	Examiner Fayyaz Alam	Art Unit 2618	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 17 October 2007 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:
- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
- b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
- Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
- (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
- (b) ☐ They raise the issue of new matter (see NOTE below);
- (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.
- NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL -324).

5. ☐ Applicant's reply has overcome the following rejection(s): _____.

6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).

7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: _____.

Claim(s) objected to: _____.

Claim(s) rejected: 2-15.

Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).

9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).

10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.

12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____

13. ☐ Other: _____.

Continuation of 11. does NOT place the application in condition for allowance because: Applicant's argument filed 10/17/2007 have been considered but are not persuasive and does not place the application under allowance.

Applicant argues that the Nishiyama reference is not a valid prior art since it was filed 2/23/2003, after the applicant's priority date of 10/18/2002. Therefore, the application should be in condition for allowance.

Examiner agrees that the Nishiyama prior art is invalid and thus rejection of claim 15 in view of Wong and Nishiyama is withdrawn.

Nevertheless, the examiner respectfully disagrees that this places the application in condition for allowance.

Consider claim 15, Wong discloses a mobile unit (read as mobile station) comprising: power meter (206) (read as measuring means) to measure the received power level and signal quality (read as received level) of each neighboring cell and serving cell (see pg. 7, lines 21 - 22; pg. 8, lines 13 - 14; pg. 13, lines 18 - 19); determining means for determining cell types of the current and neighboring cells, since four types cell reselection situations are disclosed by the invention and they are, macrocell to macrocell, macrocell to microcell, microcell to macrocell, and microcell to microcell, there must be a determining means in order to be able to differentiate among the cell types (see pg. 9, lines 1 - 5); and decision is based upon the signal quality (read as selecting means for selecting a cell as a reselection target, based on the received levels measured by the measuring means) and microcells hold preferred neighbor status with respect to macrocells (read as based on cell types determined by the determining means) (see pg. 9, lines 6 - 10; pg. 13, lines 23 - 24). Wong discloses all the claimed limitations including a cell class determiner to determine the respective cell types, i.e. macrocells and microcells, but fails to explicitly disclose identification information notified or transmitted from the serving cell or base station and neighboring cell.

Nevertheless, transmitting cell ID information representative of a cell from the serving cell is obvious and well-known, where the handoff is serving site initiated and/or assisted. It is well-known that the serving cell would transmit its own cell ID and the cell IDs of the candidate or target cells to which a possible handoff can take place. Furthermore, Wong discloses on pg. 8 line 24 - pg. 9, line 5, that his reselection algorithm is a modification of the roaming algorithm found in many popular cell phones.

Therefore, it would have been obvious for one of ordinary skill in the art to include a limitation in ones claim language that was not explicitly disclosed by Wong in order to differentiate ones own invention from the method of Wong.

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571-2701102


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SUPERVISORY PATENT EXAMINER